

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.
IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
2017 JUN 25 PM 3:54
SAVANNAH DIVISION

ANDRE CHRISTOPHER MYERS,

) CLERK

) SO. DIST. OF GA.

Petitioner,

v.

) CASE NOS. CV412-167

) CR495-123

UNITED STATES OF AMERICA,

Respondent.

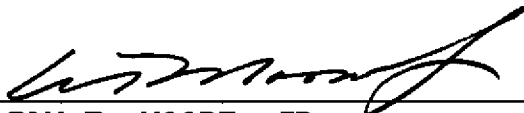
O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 3), to which objections have been filed (Doc. 5). After a careful de novo review of the record, the Court concludes that Petitioner's objections are without merit. Accordingly, the report and recommendation is **ADOPTED** as the Court's opinion in this case, and Petitioner's 28 U.S.C. § 2255 Petition is **DISMISSED**. The Clerk of Court is **DIRECTED** to close this case.

In his objections, Petitioner argues that this petition is not successive because it is based on a recent decision by the Supreme Court of the United States, decided after he filed his previous petition. (Doc. 5 at 1-2.) Petitioner's reasoning, however, is incorrect. A later petition is not successive simply because it is based on a

rule of law decided after the filing of an initial habeas petition. Rather, a petitioner may advance a purported change in the law as grounds for permission to file a second or successive habeas petition. Such permission cannot be obtained from this Court, but only from the Eleventh Circuit Court of Appeals by filing an "Application for Leave to File a Second or Successive Habeas Corpus Petition," using the form provided by the Eleventh Circuit Clerk of Court. Absent certification from the Eleventh Circuit Court of Appeals pursuant to Eleventh Circuit Rule 22-3(a), this Court is without jurisdiction to entertain the merits of a successive petition.

SO ORDERED this 25th day of June 2012.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA